

Item # _____

Prepared by: Gloria Kelly
Real Estate Services

Commissioner _____

Approved by: Lisa Kelly
County Attorney

A RESOLUTION TO GRANT A 10 FOOT WIDE PERMANENT WATER UTILITY EASEMENT, 3,579 SQUARE FEET (0.08 ACRES), MORE OR LESS, IN SIZE, ACROSS COUNTY OWNED REAL PROPERTY LOCATED AT 8340 ELLIS ROAD, KNOWN AS THE SHELBY COUNTY CEMETERY, TO THE CITY OF BARTLETT, FOR NOMINAL CONSIDERATION, FOR ITS INSTALLATION OF PERMANENT WATER MAIN IMPROVEMENTS.

SPONSORED BY: COMMISSIONER WYATT BUNKER

WHEREAS, The City of Bartlett is proposing to install permanent water main improvements to provide better distribution of water service; and

WHEREAS, Shelby County owns a certain real property located at 8340 Ellis Road, known as the Shelby County Cemetery, and further identified as Tax Parcel No. B0158 00062; and

WHEREAS, It is necessary in conjunction with the installation of said permanent water main improvements to grant the City of Bartlett a 10 foot wide Permanent Water Utility Easement, 3,579 square feet (0.08 acres), more or less, in size, across a certain portion of said real property owned by Shelby County, for nominal consideration, which easement being more particularly described in the attached Permanent Water Utility Easement Document, which is hereby incorporated by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That the aforementioned 10 foot wide Permanent Water Utility Easement be and the same are hereby granted to the City of Bartlett, for nominal consideration, for its installation of permanent water main improvements; and that the Mayor be and he is authorized to execute the attached Permanent Water Utility Easement Document granting the same.

BE IT FURTHER RESOLVED, That should the installation of said permanent water main improvements not begin within three (3) years, or should said Permanent Water Utility Easement be subsequently abandoned by the City of Bartlett for the use permitted, then and in either of these events, said Easement shall automatically become void and the rights granted revert back to Shelby County or its lawful successor.

BE IT FURTHER RESOLVED, That the granting of said Easement does not permit removal or filling within the said Easement area without prior approval of the County Engineer.

A C Wharton, Jr. County Mayor

Date: _____

ATTEST:

Clerk of County Commission

ADOPTED _____

SUMMARY SHEET

I. Description of Item

A RESOLUTION TO GRANT A 10 FOOT WIDE PERMANENT WATER UTILITY EASEMENT, 3,579 SQUARE FEET (0.08 ACRES), MORE OR LESS, IN SIZE, ACROSS COUNTY OWNED REAL PROPERTY LOCATED AT 8340 ELLIS ROAD, KNOWN AS THE SHELBY COUNTY CEMETERY, TO THE CITY OF BARTLETT, FOR NOMINAL CONSIDERATION, FOR ITS INSTALLATION OF PERMANENT WATER MAIN IMPROVEMENTS.

II. Source and Amount of Funding

No county funds required

III. Contract Items

Permanent Water Utility Easement

IV. Additional Information Relevant to Approval of this Item

The subject County owned Real Property, known as the Shelby County Cemetery, is located at 8340 Ellis Road within the City of Bartlett, and is further identified as Tax Parcel Number B0158 00062. It is 30 acres in size and was acquired by the County in 1964. Since 1964, the County has utilized this property as an active County cemetery. Only the southern half of this property is currently being used for graves. The northern half is unusable for cemetery purposes due to its separation by a large drainage ditch and topography. Residential subdivisions have developed on both the east and west sides of this County cemetery. Presently a new residential subdivision is being constructed on the north side of this property. In an effort to provide better distribution of water service to these subdivisions, the City of Bartlett needs to install permanent water main improvements across a portion of the northeast corner of this County cemetery property to connect the existing water system in the subdivision on the east side to the proposed water system in the new subdivision on the north side of this County cemetery property. The City of Bartlett has requested Shelby County to grant it this Permanent Water Utility Easement, for nominal consideration, for its installation of the needed permanent water main improvements. Based upon the above, the Administration recommends that this grant of easement be approved.

PERMANENT WATER UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, That on this the _____ day of _____, 2008, for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, by the **City of Bartlett, a Municipal Corporation of the State of Tennessee**, (hereinafter termed "Grantee"), to **Shelby County, a Political Subdivision of the State of Tennessee**, (hereinafter termed "Grantor"), the receipt and sufficiency of which is hereby acknowledged; the said Grantor has this day bargained and sold, and does hereby grant and convey unto the **City of Bartlett, a Municipal Corporation of the State of Tennessee**, and unto its successors, a perpetual easement or right-of-way to construct, operate, inspect, maintain, replace and/or remove permanent water main improvements and all necessary or desirable appurtenances over, under, across and upon the following described lands belonging to said Grantor and situated in the City of Bartlett, County of Shelby, State of Tennessee, to-wit:

This Permanent Easement is 10 feet wide over, under, across and upon a tract of land conveyed to Shelby County by Warranty Deed of Record as described in Book 5474, Page 426 in the Register's Office of Shelby County, Tennessee, which easement being more particularly described as follows:

PERMANENT EASEMENT AREA

COMMENCING at a point in the east line of the above described Shelby County tract of land, said point being at the intersection of the centerline of Wolf Trace Drive (50 foot right of way) as defined in Wolf Hollow Subdivision as recorded in Plat Book 186, Page 67 in said Shelby County Register's Office; thence South 3 degrees 49 minutes 15 seconds West along said east line and with the west end of said right of way a distance of 2.00 feet to the TRUE POINT OF BEGINNING; thence continuing with said east line South 3 degrees 49 minutes 15 seconds West a distance of 10.00 feet to a point; thence leaving said east line North 85 degrees 31 minutes 50 seconds West, twelve feet south of and parallel to the westward extension of the centerline of said Wolf Trace Drive, a distance of 206.38 feet to a point; thence North 3 degrees 22 minutes 49 seconds East a distance of 161.32 feet to a point in the north line of said Shelby County tract of land, said line also being the south line of the David Miller LLC parcel as recorded in Instrument Number 04052054 in said Shelby County Register's Office; thence along said north line South 86 degrees 35 minutes 43 seconds East a distance of 10.00 feet to a point; thence leaving said north line South 3 degrees 22 minutes, 49 seconds West a distance of 151.51 feet to a point; said point being two feet south of the westward extension of the centerline of said Wolf Trace Drive; thence South 85 degrees 31 minutes 50 seconds East, two feet south of and parallel to the westward extension of the centerline of said Wolf Trace Drive, a distance of 196.57 feet to the TRUE POINT OF BEGINNING.

Containing 3,579 square feet (0.08 acres), more or less.

ALL BEARINGS ARE RELATIVE.

This Permanent Water Utility Easement is granted to enable said Grantee, its contractors, employees, and agents ingress/egress and occupancy over, across and upon the above described Permanent Easement area, together with the reasonable right of ingress/egress over any adjacent lands of the undersigned to or from said easement or right-of-way, for the purpose of constructing, operating, inspecting, maintaining, replacing or removing said permanent water main improvements, and for the purpose of doing any other work necessary for the proper maintenance of said improvements.

This conveyance is subject to acceptance by said Grantee, which acceptance being expressly acknowledged herein by the approval of the proper City Officials as evidenced by their signature hereinbelow.

TO HAVE AND TO HOLD the above described easement and right unto the **City of Bartlett, a Municipal Corporation of the State of Tennessee**, and unto its successors, together with the right of exercising all rights reasonably and properly incident to the rights expressly granted.

And the undersigned does hereby warrant the above described easement and right unto the said Grantee and unto its successors, against the lawful claims or demands of any or all persons claiming by, through or under the undersigned.

The said Grantee agrees to have its Contractor, at said Contractor's own expense, to repair or cause to be repaired all damages to said Grantor's property outside the above described Permanent Water Utility Easement Area caused by the construction of said water main improvements; to maintain the property in an orderly fashion at all times during the construction; to remove all debris from the property; and to replace the property in the same condition as that existing prior to said construction, with the exception of the actual construction of said water main improvements intended by said Grantee. The said Grantee further agrees to indemnify and hold harmless the said Grantor against any and all damages and costs, including legal fees to persons or property, or claims for damages that arise due to said construction activity, but only to the limits of the Tennessee Governmental Tort Liability Act (Sec. 29-20-101 et.seq. T.C.A.).

Also, it is hereby expressly understood that should the construction of said water main improvements not begin within three (3) years, or should the Permanent Water Utility Easement herein granted be subsequently abandoned by said Grantee for the use permitted, then and in either of these events, said Easement shall automatically become void and the rights granted revert back to Shelby County or its lawful successor.

Furthermore, it is hereby expressly understood that the granting of the above-described easements does not permit removal or filling within the said easement areas without prior approval of the County Engineer.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed by the affixing thereto of the signature of the Mayor of the County of Shelby, the said Mayor being authorized so to do pursuant to Section 4.03-18 of Chapter 260 of the Private Acts of 1974 in accordance with the approval of the Shelby County Board of Commissioners, on the _____ day of _____, 2008, in Resolution # _____.

Grantee:
CITY OF BARTLETT, TENNESSEE

Grantor:
SHELBY COUNTY, TENNESSEE

By: _____
A. Keith McDonald, City Mayor

By: _____
A C Wharton, Jr., County Mayor

Approved as to Form:

Approved as to Form:

By: _____
City Attorney

By: _____
Contract Administrator/
Assistant County Attorney

Other City Approvals:

Other County Approvals:

By: _____
City Engineer

By: _____
County Engineer

By: _____
Manager of Real Estate Services

By: _____
Administrator of Land Bank Dept.

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, the undersigned, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared **A C WHARTON, JR., Mayor of Shelby County, Tennessee**, with whom I am personally acquainted, and who upon oath acknowledged himself to be the **Mayor of Shelby County, Tennessee**, the within named bargainor, one of the counties of the State of Tennessee, and that he as such **Mayor** of said county, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of **Shelby County, Tennessee**, by himself as such **Mayor** of said **Shelby County, Tennessee**.

WITNESS my hand and Notarial Seal, at office in Memphis, in the County aforesaid, this ____ day of _____, 2008.

Notary Public

MY COMMISSION EXPIRES:

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, the undersigned, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared **A. KEITH McDONALD, Mayor of the City of Bartlett**, with whom I am personally acquainted, and who upon oath acknowledged himself to be the **Mayor of City of Bartlett**, the within named bargainor, one of the municipal corporations of the State of Tennessee, and that he as such **Mayor** of said Town, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the **City of Bartlett** by himself as such **Mayor** of said municipal corporation.

WITNESS my hand and Notarial Seal, at office in the City of Bartlett, in the County aforesaid, this ____ day of _____, 2008.

Notary Public

MY COMMISSION EXPIRES:

(FOR RECORDING DATA ONLY)

Property Address:

8340 Ellis Road

Tax Parcel No:

B01058 00062

Mail Tax Bills to: (Person or Agency
responsible for payment of taxes)

Exempt - Government

Owners Name and Address:

Shelby County Government

584 Adams Avenue

Memphis, TN 38103

This instrument prepared by:

Shelby County Government

Real Estate Services

584 Adams Avenue

Memphis, TN 38103

Phone No. (901) 545-4323

Shelby County Cemetery

8340 Ellis Road

Tax Parcel No. B01058 00062



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8340 Ellis Road

Tax Parcel No. B01058 00062

